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21906 7590 07/22/2011 TROP, PRUNER & HU, P.C. 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631			EXAMINER MIRZA, ADNAN M	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES P. KETRENOS, EDWARD R. RHOADS,
and CHARLES R. LYNCH

Appeal 2010-004412
Application 09/466,113
Technology Center 2400

Before: ERIC S. FRAHM, GREGORY J. GONSALVES, and KALYAN K.
DESHPANDE, Administrative Patent Judges.

DESHPANDE, Administrative Patent Judge.

DECISION ON APPEAL

STATEMENT OF CASE¹

The Appellants seek review under 35 U.S.C. § 134(a) of a rejection of claims 1-24, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

We AFFIRM.

The Appellants invented file retrieval over networks. Specification 1:2-3.

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below [bracketed matter and some paragraphing added]:

1. A method comprising:

[1] receiving a request for a portion of a file system by a client;

[2] identifying whether the portion is stored in a first location associated with portions of the file system that have been previously stored by the client; and

[3] if not, determining whether the portion is stored in a second location associated with portions of the file system that were streamed to the client by a server.

REFERENCES

The Examiner relies on the following prior art:

Pierre-Louis	US 6,421,777 B1	Jul. 16, 2002
Engle	US 6,513,048 B1	Jan. 28, 2003

¹ Our decision will make reference to the Appellants' Appeal Brief ("App. Br.," filed May 7, 2009) and Reply Brief ("Reply Br.," filed Nov. 16, 2009), and the Examiner's Answer ("Ans.," mailed Sep. 16, 2009).

REJECTIONS

Claims 1-24 stands rejected under 35 U.S.C §103(a) as being unpatentable over Pierre-Louis and Engle. Ans. 4.

ISSUE

The issue of whether the Examiner erred in rejecting claims 1-24 under 35 U.S.C. § 103(a) as unpatentable over Engle and Pierre-Louis turns on whether the combination of Engle and Pierre-Louis teach or suggest limitations [2] and [3] of claim 1.

FACTS PERTINENT TO THE ISSUES

The following enumerated Findings of Fact (FF) are supported by a preponderance of the evidence.

Facts Related to the Prior Art

Pierre-Louis

01. Pierre-Louis is directed to a method and apparatus to monitor and change boot images in a distributed data processing system. Pierre-Louis 1:10-12.
02. The process begins with a determination whether the client machine is to be booted from the network. If the client is not to boot from the network, then the client boots from the BIOS boot device located in the client. If the BIOS indicates that the client is to boot from the network, then the process continues as if it is determined the client is to boot from the network. When it is determined that the client is to boot from the network, a boot

request is sent to the server. The server responds with a boot image and the boot image either redirects to a local image on the client or to perform a remote boot. Pierre-Louis 10:25-46.

Engle

03. Engle is directed to computer software for organizing remote files. Engle 1:25-27. The method and apparatus allows for a hierarchical folder structure, where files are assigned to each folder by designating for each folder, one or more individual filenames or templates that encompass multiple filenames. Engle 2:43-47. A user or application can request the contents of a selected folder and the method and apparatus retrieves the files. Engle 2:53-58.

ANALYSIS

*Claims 1-24 rejected under 35 U.S.C §103(a) as being unpatentable over
Pierre-Louis and Engle*

The Appellants contend that Pierre-Louis and Engle fail to teach or suggest limitations [2] and [3] of claim 1. App. Br. 10. We disagree with the Appellants.

Claim 1 requires a method that first receives a request for a portion of a file system by a client. A “portion of a file system” encompasses any single file, any combination of files, or any single portion of a file on a file system.

Limitation [2] of claim 1 further requires that it is identified whether the requested portion is stored in a first location associated with portions of the file system that have been previously stored by the client. Limitation [3]

requires that if the portion is not stored in the first location, determining whether the portion is stored in a second location associated with portions of the file system that were streamed to the client by a server.

Pierre-Louis describes a method and apparatus to monitor and change boot images in a distributed data processing system. FF 01. The method determines whether a client machine is to boot from a boot image available on the network or available locally. FF 02. That is, a client machine requests a boot image file. A boot image file is a portion of a file system based on the meaning of the term discussed supra.

If the client machine is to not boot from the network, the client boots from BIOS boot device located in the client. FF 02. When the client machine boots from the network, a server responds with a boot image. FF 02. The boot image from the server may redirect the client machine to boot from a boot image stored locally on the client. FF 02.

That is, Pierre-Louis describes a first location that is the client machine and a second location that is the server. The client machine is a location that stores portions of the file system and the server is a location that streams the boot image to the client machine.

As such, Pierre-Louis teaches or suggests both limitations [2] and [3] of claim 1. The Appellants have not provided any further rationale or evidence distinguishing the claimed invention from Engle and Pierre-Louis. As such, we find that the Examiner did not err in rejection claims 1-24.

CONCLUSIONS OF LAW

The Examiner did not err in rejecting claims 1-24 under 35 U.S.C. § 103(a) as unpatentable over Pierre-Louis and Engle.

DECISION

To summarize, our decision is as follows.

- The rejection of claims 1-24 under 35 U.S.C. § 103(a) as unpatentable over Pierre-Louis and Engle is sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2010).

AFFIRMED

ELD